

MANUFACTURED AND MOBILE HOME AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies provisions related to manufactured and mobile homes.

Highlighted Provisions:

This bill:

- ▶ makes mandatory the treatment of a manufactured or mobile home as an improvement to real property if the owner of the manufactured or mobile home owns the property to which the manufactured or mobile home is permanently affixed;
- ▶ requires as a condition of obtaining a building permit that the owner of a manufactured or mobile home comply with certain requirements if the owner owns the land to which the manufactured or mobile home is permanently affixed;
- ▶ requires the issuance of a building permit under certain circumstances; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

70D-2-401, as last amended by Laws of Utah 2013, Chapters 266 and 399

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **70D-2-401** is amended to read:

70D-2-401. Qualification of manufactured home or mobile home as improvement to real property -- Requirements -- Removal from property.

(1) Except as provided in this section, for purposes of this chapter, a manufactured home or mobile home is considered personal property.

- 33 (2) For purposes of this chapter, if the requirements of this section are met, a
34 manufactured home or mobile home is:
- 35 (a) considered to be an improvement to real property; and
 - 36 (b) considered as real property.
- 37 (3) A manufactured home or mobile home is considered to be an improvement to real
38 property if:
- 39 (a) the manufactured home or mobile home is permanently affixed to real property;
 - 40 (b) the person seeking to have the manufactured home or mobile home considered to
41 be an improvement to real property:
 - 42 (i) owns the manufactured home or mobile home;
 - 43 ~~[(ii) (A) owns the real property to which the manufactured home or mobile home is~~
44 ~~permanently affixed, or]~~
 - 45 ~~[(B)]~~ (ii) leases the real property to which the manufactured home or mobile home is
46 permanently affixed and the real property is financed in accordance with Subsection (4); and
 - 47 (iii) meets the requirements of:
 - 48 (A) Subsections (5) and (6); or
 - 49 (B) Subsection (8); and
 - 50 (c) (i) in accordance with Subsection (7), the following are recorded by the county
51 recorder:
 - 52 (A) the affidavit of affixture described in Subsection (7); and
 - 53 (B) the receipt of surrender of ownership documents described in Subsection (7); or
 - 54 (ii) the affidavit of affixture described in Subsection (8) is recorded by the county
55 recorder in accordance with Subsection (8).
- 56 (4) For purposes of Subsection (3)(b)(ii)~~[(B)]~~, a manufactured home or mobile home
57 shall be financed in accordance with the guidelines established by:
- 58 (a) the Federal Home Loan Mortgage Corporation;
 - 59 (b) the Federal National Mortgage Association;
 - 60 (c) the United States Department of Agriculture; or
 - 61 (d) another entity that requires as part of the entity's financing program restrictions:
 - 62 (i) on:
 - 63 (A) ownership; and

64 (B) actions affecting title and possession; and

65 (ii) if the restrictions described in Subsection (4)(d)(i) are similar to restrictions
66 imposed by one or more of the entities described in Subsections (4)(a) through (c).

67 (5) (a) An owner of a manufactured home or mobile home seeking to have the
68 manufactured home or mobile home considered to be an improvement to real property and
69 considered real property shall complete an affidavit of affixture.

70 (b) An affidavit of affixture described in Subsection (5)(a) shall contain:

71 (i) the vehicle identification numbers of the manufactured home or mobile home;

72 (ii) the legal description of the real property to which the manufactured home or mobile
73 home is permanently affixed;

74 (iii) a statement certified by the assessor of the county in which the manufactured home
75 or mobile home is located that the owner of the manufactured home or mobile home:

76 (A) is not required to pay personal property tax in this state on the manufactured home
77 or mobile home; or

78 (B) if the manufactured home or mobile home is subject to personal property tax in this
79 state, has paid all current and prior year personal property taxes assessed on the manufactured
80 home or mobile home;

81 (iv) a description of any security interests in the manufactured home or mobile home;

82 and

83 (v) a receipt of surrender of ownership documents issued by the Motor Vehicle
84 Division of the State Tax Commission in accordance with Subsection (6).

85 (6) (a) The Motor Vehicle Division of the State Tax Commission shall issue a receipt
86 of surrender of ownership documents under Subsection (5)(b)(v) if an owner described in
87 Subsection (5) surrenders to the Motor Vehicle Division the:

88 (i) manufacturer's original certificate of origin; or

89 (ii) title to the manufactured home or mobile home.

90 (b) After issuing the receipt of surrender of ownership documents in Subsection (6)(a),
91 the Motor Vehicle Division shall maintain a permanent record of:

92 (i) the receipt of surrender of ownership documents; and

93 (ii) the certificate or title described in Subsection (6)(a)(ii).

94 (7) (a) An owner shall present to the county recorder:

95 (i) the affidavit of affixture described in Subsection (5); and

96 (ii) the receipt of surrender of ownership documents described in Subsection (6).

97 (b) A county recorder who receives the documents described in Subsection (7)(a) shall
98 record the documents.

99 (c) An owner of property described in Subsection (5) shall provide a copy of the
100 recorded affidavit of affixture to:

101 (i) the Motor Vehicle Division of the State Tax Commission; and

102 (ii) the assessor of the county in which the manufactured home or mobile home is
103 located.

104 (8) (a) If an owner cannot comply with Subsections (5), (6), and (7) because the
105 certificate of title for the manufactured home or mobile home is lost or destroyed and a
106 duplicate title cannot be obtained, the owner of the manufactured home or mobile home
107 seeking to have the manufactured home or mobile home considered to be an improvement to
108 real property and considered real property shall complete an affidavit of affixture meeting the
109 requirements of Subsection (8)(b).

110 (b) An affidavit of affixture described in Subsection (8)(a) shall contain the following
111 from the owner:

112 (i) the vehicle identification number of the manufactured home or mobile home;

113 (ii) the legal description of the real property to which the manufactured home or mobile
114 home is permanently affixed;

115 (iii) a statement that the manufactured home or mobile home is permanently affixed to
116 the real property;

117 (iv) a statement that the manufactured home or mobile home is not registered with nor
118 being assessed a fee in lieu of taxes by the Motor Vehicle Division of the State Tax
119 Commission;

120 (v) a statement that the manufactured home or mobile home is being taxed as an
121 improvement to real estate by the county assessor as permitted under Section 59-2-1503;

122 (vi) a statement that the certificate of title described in Subsection (6)(a)(ii) has been
123 lost or destroyed and the owner is unable to secure a duplicate title; and

124 (vii) a statement that the manufacturer's identification number or numbers are included
125 in the deed or loan document recorded with the county recorder.

(c) The affidavit of affixture described in Subsection (8)(b) may be substantially in the following form:

"AFFIDAVIT OF AFFIXTURE

I,[Affiant's Name], being first duly sworn, do hereby depose and say:

1. I am a resident of [County], State of [State], and I have personal knowledge of the facts contained in this affidavit and I am making this affidavit to comply with Utah Code Ann. Section 70D-2-401.

2. I own a fee simple interest in the following described property ("Real Property") located at [City or Town], [County], State of Utah, more particularly described as: [legal description].

3. I own a [manufactured home or mobile home] ("the Home") described by the manufacturer's identification number(s): [VIN or other manufacturer's identifying number].

4. The Home is permanently affixed to the Real Property.

5. The Home is not registered with the Utah Motor Vehicles Division.

6. The Home is taxed as an improvement to real estate by the [County] County Assessor as permitted under Utah Code Ann. Section 59-2-1503.

7. The Certificate of Title for the Home has been lost or destroyed and I am unable to secure a duplicate title.

8. The manufacturer's identification number(s) are included in the deed that is being recorded concurrently with this affidavit.

DATED this ____ day of _____, 20__.

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____.

Notary Public

My Commission Expires:

Residing at: _____

_____ "

(d) A county recorder who receives an affidavit of affixture described in Subsection (8)(b) shall record the affidavit of affixture.

157 (9) (a) If the owner of a manufactured home or mobile home owns the real property to
158 which the manufactured home or mobile home is permanently affixed, the manufactured home
159 or mobile home is considered to be an improvement to real property.

160 (b) Before obtaining a building permit related to permanently affixing the
161 manufactured home or mobile home to property, the owner of a manufactured home or mobile
162 home described in Subsection (9)(a) shall comply with:

163 (i) Subsections (5), (6), and (7); or

164 (ii) Subsection (8).

165 (c) In complying with the requirements described in Subsection (9)(b), the owner of the
166 manufactured home or mobile home shall state that the mobile home is or will be permanently
167 affixed to the real property upon completion of the work covered by the building permit.

168 (d) In accordance with Section 15A-1-303, a local regulator shall require a building
169 permit for permanently affixing a manufactured home or mobile home within that political
170 subdivision when the owner of the manufactured home or mobile home owns the real property
171 to which the manufactured home or mobile home is to be permanently affixed.

172 ~~[(9)]~~ (10) A lien on the manufactured home or mobile home that is considered to be an
173 improvement to real property shall be perfected in the manner provided for the perfection of a
174 lien on real property.

175 ~~[(10)]~~ (11) If a manufactured home or mobile home owner separates the manufactured
176 home or mobile home from the real property, the owner may acquire a new title by submitting
177 to the Motor Vehicle Division of the State Tax Commission:

178 (a) a recorded affidavit that the manufactured home or mobile home is removed from
179 the real property; and

180 (b) an application for a new title.

181 ~~[(11)]~~ (12) The determination of whether a manufactured home or mobile home is
182 considered real property or personal property under this section may not be considered in
183 determining whether the manufactured home or mobile home is real property or personal
184 property for purposes of taxation under Title 59, Chapter 2, Property Tax Act.

185 ~~[(12)]~~ (13) This section does not apply to a modular home.